

## **803 KAR 2:115. Penalties.**

RELATES TO: KRS 338.141, 338.991

STATUTORY AUTHORITY: KRS Chapter 13A

NECESSITY, FUNCTION, AND CONFORMITY: Pursuant to the authority granted the Kentucky Occupational Safety and Health Standards Board by KRS 338.051, the following rules and administrative regulations are adopted pertaining to the issuance of citations and the levying of penalties concurrent with the issuance of citations.

Section 1. Proposed Penalties. (1) After, or concurrent with, the issuance of a citation, and within a reasonable time after the termination of the inspection, the Commissioner of the Department of Workplace Standards shall notify the employer by certified mail or by personal service by the compliance safety and health officer of the proposed penalty under KRS 338.991 or that no penalty is being proposed. Any notice of proposed penalty shall state that the proposed penalty shall be deemed to be the final order of the review commission and not subject to review by any court or agency unless, within fifteen (15) working days from the date of receipt of such notice, the employer notifies the Commissioner of the Department of Workplace Standards in writing that he intends to contest the citation or the notification of proposed penalty before the review commission.

(2) The commissioner shall determine the amount of any proposed penalty, giving due consideration to the appropriateness of the penalty with respect to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations.

(3) Appropriate penalties may be proposed with respect to an alleged violation even though after being informed of such alleged violation by the compliance safety and health officer, the employer immediately abates, or initiates steps to abate, such alleged violation. Penalties shall not be proposed for de minimis violations which have no direct or immediate relationship to safety or health. (OSH 110; 1 Ky.R. 161; eff. 12-11-74; TAm eff. 8-9-2007; TAm eff. 9-8-2011.)